

11:23-12:5	Fault irrelevant given plaintiff's admission of being distracted; prejudicial.	<p>OVERRULED as to 11:23-12:2 (ending after "I don't know why she didn't get over.")</p> <p>SUSTAINED as to 12:2-5 (beginning at "I mean, it . . .")</p>
16:13-17:18	Fault irrelevant given plaintiff's admission of being distracted; prejudicial.	OVERRULED

B. William Cummings (November 4, 2010)

Defendant's Designation	Plaintiffs' Objection	Court's Ruling
	None	
Plaintiffs' Counter-Designation	Defendant's Objection	Court's Ruling
68:14-21 (previously designated 57:7-63:21, but Plaintiffs withdrew designation as to 57:7-68:13)	<p>Graco objects pursuant to FRE 402 and 403. Testimony about Mr. Cummings' own seat belt use, experience with car seats and personal opinions regarding the crashworthiness doctrine have no place in this case (see, e.g. 64:15-68:21)</p> <p>Graco further objects that this testimony was designated by plaintiffs in an attempt to bury relevant evidence. While Graco's total designations of Mr. Cummings are only 6 minutes, this portion alone is more than 10 minutes long.</p> <p>Graco further objects that the designation includes improper hypothetical questions that lack foundation and a sufficient evidentiary predicate.</p>	OVERRULED

C. Steven Huffine (February 22, 2011)

Defendant's Designation	Plaintiffs' Objection	Court's Ruling
24:6-21	Hearsay, Rule 802, no foundation; prejudicial under Rule 403.	SUSTAINED
30:16-32:6	No foundation under Rules 702, 703; use of term "possibly" on pg. 31, L. 4 is not to reasonable medical probability and is therefore irrelevant and prejudicial under Rules 402 and 403. The witness admits his opinion on this issue is not based on reasonable medical certainty. See pg. 66, L. 20 – pg. 67, L. 3. Hearsay under Rule 802. Not qualified to offer this opinion; see pg.60, L. 1 – pg. 61, L. 13.	OVERRULED
32:20-24	No foundation under Rules 702, 703; use of term "possibly" on pg. 31, L. 4 is not to reasonable medical probability; question is not asked to reasonable medical probability and is therefore irrelevant and prejudicial under Rules 402 and 403. The witness admits his opinion on this issue is not based on reasonable medical certainty. See pg. 66, L. 20 – pg. 67, L. 3. Hearsay under Rule 802. Not qualified to offer this opinion; see pg.60, L. 1 – pg. 61, L. 13.	OVERRULED
67:22-68:2	Leading (form objection made; question was not rephrased)	OVERRULED
68:9-12	Leading (form objection made; question was not rephrased)	OVERRULED
Plaintiffs' Counter-Designation	Defendant's Objection	Court's Ruling
33:1-48:23	Graco objects pursuant to FRE 402 and 403. Detailed testimony of J.M.'s treatment is not material to any issue in this case. Graco further objects that this testimony was designated by plaintiffs in an attempt	OVERRULED

	to bury relevant evidence. While Graco's total designations of Mr. Huffine total only 18 minutes, this portion of counter-designations alone is more than 21 minutes long	
51:6-25	Graco objects pursuant to FRE 402 and 403. Detailed testimony of J.M.'s treatment is not material to any issue in this case.	OVERRULED
61:14-62:8	Graco objects pursuant to FRE 402 and 403. Detailed testimony of J.M.'s treatment is not material to any issue in this case.	OVERRULED
63:6-65:23	Foundation—improper question asking witness to comment on other witnesses' testimony.	SUSTAINED

IT IS SO ORDERED.

SIGNED this 20th day of August, 2011.



DAVID FOLSOM
UNITED STATES DISTRICT JUDGE